THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No. 2916 of 2004

Dated:05-03-2007

Between:-

The Depot Manager, A.P.S.R.T.C.
Ranigunj.II Depot,
Secunderabad.

..Petitioner

And

M.A. Karim

..Respondents.

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No. 2916 of 2004

:O R D E R:

This writ petition is filed seeking Certiorari to call for records relating to the award made in I.D.No. 49 of 2002 dated 20-08-2003 on the file of the learned Additional Labour Court, Hyderabad.

The petitioner is the management. First respondent is the workman. It appears the first respondent was removed from service, as a disciplinary measure, by proceedings dated 09-03-2002 of the Depot Manager, A.P.S.R.T.C., Ranigunj-II Depot, Secunderabad. Aggrieved by the same, he raised industrial dispute in I.D.No. 49 of 2002 under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'the Act').

It was the contention of the first respondent that while he was conducting bus on 09-10-2001 on the route No. 250, checking officials checked the bus and found certain cash and ticket irregularities. The sum and substance of the allegation made against him was that he did not punch the tickets correctly. There was no allegation of misappropriation of money or that he has collected the money and not issued tickets or not issued not collected. He submitted the explanation stating that due to rush as well as confusion, he issued some tickets of the same bunch i.e., Rs.04-50 ps. denominations earlier than the tickets which are in order prior to that. This is only a

small mistake committed by him in confusion.

The petitioner-respondent filed a detailed counter stating that the charges framed against the workman were proved in full and full opportunity was also given to him to defend his case. Thereafter, on the basis of past record of the workman, a decision was taken to remove him from service. The same is neither arbitrary nor illegal.

Before the Labour Court, no oral evidence was adduced by both sides. No document was marked on behalf of the workman. However, on behalf of the Management, Exs.M.1 to M.32 were marked.

After detailed consideration of the matter, the Labour Court noticed that admittedly, as per Ex.M.8, the checking officials categorically stated, that the workman may use the tickets at any point of time, but apprehension is not a proof of any charge. So the punishment of removal imposed to the workman is disproportionate for the charges leveled against him. Further, there is no loss to the petitioner-Corporation and it is not a charge where the workman collected the amount from the passengers and failed to issue tickets nor any loss is caused to the Corporation. Therefore, the Labour Court directed reinstatement of the workman into service with continuity of service and 50% of back wages and further directed the Corporation to impose a punishment of stoppage of two annual grade increments with cumulative effect. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioner strenuously contended that firstly the conduct of the workman was neither clean nor unblemished. He was punished on several occasions for the similar misconduct committed by him and in fact he was removed from service once earlier. May be, the charge is not that he has collected the amounts and not issued the tickets and no loss is caused to the Corporation. But that itself does not mean that the workman is absolved from the charges. The charge is that the workman issued tickets which are not in serial number i.e., he has issued the tickets in serial order later in

serial number, and first serial order numbers later on. This in fact, gave lot of scope for the workman to commit misconduct by re-issuing tickets. Therefore, the award made by the Labour Court, particularly directing payment of 50% back wages is unwarranted.

Whereas the learned counsel for the workman-Sri A.K. Jaya Prakash Rao contended that the Labour Court, after detailed consideration of the matter, came to such a conclusion, while exercising its power under Section 11-A of the Act. Further, the workman has already retired from service on attaining the age of superannuation and the workman in fact was imposed with a punishment of stoppage of two increments with cumulative effect. Therefore, there is no necessity of any further interference by this Court for reducing the relief granted by the Labour Court.

I have given my anxious consideration to the respective submissions made by the learned counsel appearing on either side; perused the impugned award and material available on record.

At the outset, I am of the opinion that it appears there was no charge that the workman collected the amount from the passengers and failed to issue tickets and caused any loss to the Corporation. But this is a misconduct, which definitely calls for a deep probe. The workman issued tickets of Rs.04-50 denominations 193/563176, 177 and 178 to the passengers who boarded the bus at Nacharam and bound for ECIL ex. Stages 4 to 9; whereas he has issued nine more tickets of 193/563182 to 188 of the same denomination of Rs.04-50 ps., and the passengers who boarded the bus at Secunderabad station earlier than the passengers under ticket Nos. 176, 177 and 178, who alighted at Mallapur ex. Stages 1 to 6. This shows that the workman had intention of re-issuing the tickets that is what exactly the Ticket Inspector deposed before the inquiry officers stating that there is every possibility that the workman-Conductor is likely to re-issue those tickets and make money. This charge though seems to be trivial in nature, but it goes to the root of the system of issuing tickets and

collecting fare. Therefore, though the Labour Court granted re-instatement with continuity of service with 50% back wages and further stoppage of two increments with cumulative effect, I am of the opinion that the Labour Court ought not to have granted 50% of the back wages in the facts and circumstances of the case, particularly in view of the past conduct of the workman. However, it is brought to my notice that while admitting the writ petition, 25% of the back wages were directed to be deposited and in pursuance of the said direction, the petitioner-Management has already deposited the amount and the same was withdrawn by the first respondent-workman. But the workman, after attaining the age of superannuation, retired from service.

In the light of the above, I deem it appropriate to modify the impugned award to be read as under:

In the result, the petitioner-Management is directed to re-instate the first respondent-workman with 25% of the back wages, continuity of service and further to impose the punishment of stoppage of two annual grade increments with cumulative effect.

With the above modification, this writ petition is disposed of. No order as to costs.

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C.V. RAMULU, J

Dated: 05-03-2007.
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